

14 October 1983

MEMORANDUM FOR: [REDACTED], Chairman, Panel on the Use of Classified  
Intelligence Information by Drug Enforcement Agencies

FROM: [REDACTED]

SUBJECT: Classification of Information Under E.O. 12356 Developed by  
Law Enforcement Agencies [REDACTED]

Executive Order 12356 provides authority to authorize, if not require law enforcement agencies to classify any information which they develop in their international operations which falls into any of the following classification categories of Section 1.3 of Executive Order 12356. [REDACTED]

- (a) Foreign government information
- (b) Intelligence activities or intelligence sources or methods
- (c) Foreign relations or foreign activities of the United States
- (d) A confidential source

#### Rationale

Original classification authorities must classify any document containing any of the classification categories in the Executive Order. If an agency does not have original classification authority provisions of Executive Order 12356 still apply if the information developed falls into one of the classification categories. Specifically, Section 1.2 "Classification Authority" and Section 2.1 "Use of Derivative Classification" would apply.

Subsection 1.2(e) provides that any employee not possessing original classification authority who originates information believed by that person to require classification shall protect the information consistent with the Order and transmit the information promptly to the agency that has appropriate subject matter interest and classification authority. That agency has thirty days to decide on whether to classify the information. [REDACTED]

Subsection 2.1(a), describes derivative classification as "(1) the determination that information is in substance the same as information currently classified, and (2) the application of the same classification markings. This subsection further provides that "Persons. . . who only apply classification markings. . . as directed by a classification guide, need not possess original classification authority."

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25X1 The above subsections clearly establish that, in effect, the classification system is to be applied throughout Government whenever information is developed, for whatever reason or from any source, which falls within any of the classification categories of the Executive Order, regardless of whether or not there exists authority to classify. [ ]

25X1 There are no Federal agencies specifically excluded from the provisions of the Executive Order. The entire Executive Order is based on the protection of certain information without regard to the identity of the originator. In effect, the Order establishes a system of uniform identification which is the key to the whole issue. How law enforcement has protected its information was not previously a matter of national interest since it operated in the area of domestic public safety having little impact on the public as a whole. However, the drug law enforcement efforts today involve international criminal networks of extensive magnitude. Their limited resources demand reliance on good foreign intelligence which is beyond the traditional "street informant." The Intelligence Community is providing intelligence but there must be the assurance of protection. Also, the Community is assisting to improve the intelligence capabilities of law enforcement. In some instances, based on this assistance, a degree of sophistication is reached which parallels sensitive Intelligence Community capabilities. This is one of the strongest arguments to require classification standards to protect sources and methods--i.e., the application of derivative classification. [ ]

25X1 Law enforcement representatives operating overseas on the narcotics problem are a member of the country team and maintain extensive contacts with counterpart and other foreign officials engaged in anti-narcotics efforts. The team develops information from foreign sources, some confidential, especially as concerns reporting derogatory information such as corruption, lack of cooperation, etc. Such information is sensitive and requires protection under the provisions of the Executive Order regardless of which member of the team was involved in developing it. [ ]

25X1 In sum, a case can be made to authorize, if not require, law enforcement agencies to use the classification system, whenever they develop any information which falls within any of the classification categories. This identifies such information not only for the same protection as elsewhere in Government but distinguishes it from other information which one perhaps can describe as "wholly law enforcement." The interests of the Intelligence Community are served by the assurance that the classification system will be used and thereby uniformly identify and protect all sensitive drug-related foreign intelligence collected and disseminated. [ ]

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